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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	21631-0009	6897
26587 7590 08/14/2008 MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166				
EXAMINER				
ELISCA, PIERRE E				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: CURT V. AVALLONE and JACOB D. MARK

Application No. 09/828,444
Technology Center 3600

Mailed: August 14, 2008

Before KRISTA ZELE, Deputy *Chief Appeals Administrator*
ZELE, Deputy *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 27, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the Examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that in the Final Rejection mailed November 2, 2006, the following § 103 rejection was made:

Claims 44-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anandan et al. (U.S. PG Pub No. 2003/0021242) in view of Herrod et al (U.S. Patent 6,405,049).

The Examiner's Answer mailed January 10, 2008 introduced a new ground of rejection, where the Examiner listed the following § 103 rejection as follows:

Claims 44-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anandan et al. (U.S. PG Pub No. 2002/0062251) in view of Herrod et al (U.S. Patent 6,405,049).

MPEP § 1207.03 states:

Any new ground of rejection made by an examiner in an answer must be:

(A) approved by a Technology Center (TC) Director or designee; and
(B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer (see MPEP § 1207.02).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned the Examiner to:

1) issue and mail a revised Examiner's Answer in accordance with

MPEP § 1207.03 noted above; and

2) for such further action as may be appropriate.

KZ/sjb

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